



Reprinted  
March 2, 2006

---

---

## ENGROSSED SENATE BILL No. 35

---

DIGEST OF SB 35 (Updated March 1, 2006 5:23 pm - DI 73)

**Citations Affected:** IC 36-7.

**Synopsis:** Provides that, with certain exceptions, the granting of building permits, approvals for construction or development, and certain other permits is governed for at least three years after a person applies for a permit by the law, rules, and approvals in effect at the time that the applicant applies for the permit. Specifies that the provisions concerning application of laws, rules, and regulations in effect at the time of application for a permit do not apply if the development or other activity to which the permit relates is not completed within seven years after the development or activity is commenced.

**Effective:** Upon passage.

---

---

### Long, Simpson

(HOUSE SPONSORS — WOLKINS, MOSES)

---

---

January 9, 2006, read first time and referred to Committee on Rules and Legislative Procedure.

January 19, 2006, amended; reassigned to Committee on Judiciary.

January 26, 2006, amended, reported favorably — Do Pass.

February 1, 2006, read second time, amended, ordered engrossed.

February 2, 2006, engrossed. Read third time, passed. Yeas 50, nays 0.

#### HOUSE ACTION

February 7, 2006, read first time and referred to Committee on Local Government.

February 23, 2006, amended, reported — Do Pass.

March 1, 2006, read second time, amended, ordered engrossed.

---

---

C  
o  
p  
y

ES 35—LS 6089/DI 13+



Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

## ENGROSSED SENATE BILL No. 35

---

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 36-7-4-1109 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE UPON PASSAGE]: **Sec. 1109. (a) As used in this**  
4 **section, "local governmental agency" includes any agency, officer,**  
5 **board, or commission of a local unit of government that may issue:**  
6 (1) a permit; or  
7 (2) an approval of a land use or an approval for the  
8 construction of a development, a building, or another  
9 structure.  
10 (b) As used in this section, "permit" means any of the following:  
11 (1) An improvement location permit.  
12 (2) A building permit.  
13 (3) A certificate of occupancy.  
14 (4) Approval of a site-specific development plan.  
15 (5) Approval of a primary or secondary plat.  
16 (6) Approval of a conditional use, special exception or special  
17 use.



C  
o  
p  
y

**(7) Approval of a planned unit development.**

**(c) If a person files a complete application as required by the effective ordinances or rules of a local governmental agency for a permit with the appropriate local governmental agency, the granting of the permit, and the granting of any secondary, additional, or related permits or approvals required from the same local governmental agency with respect to the general subject matter of the application for the first permit, are governed for at least three (3) years after the person applies for the permit by the statutes, ordinances, rules, development standards, and regulations in effect and applicable to the property when the application is filed, even if before the issuance of the permit or while the permit approval process is pending, or before the issuance of any secondary, additional, or related permits or approvals or while the secondary, additional, or related permit or approval process is pending, the statutes, ordinances, rules, development standards, or regulations governing the granting of the permit or approval are changed by the general assembly or the applicable local legislative body or regulatory body. However, this subsection does not apply if the development or other activity to which the permit relates is not completed within seven (7) years after the development or activity is commenced.**

**(d) Subsection (e) applies if:**

**(1) either:**

**(A) a local governmental agency issues to a person a permit or grants a person approval for the construction of a development, a building, or another structure; or**

**(B) a permit or approval is not required from the local governmental agency for the construction of the development, building, or structure;**

**(2) before beginning the construction of the development, building, or structure, the person must obtain a permit or approval for the construction of the development, building, or structure from a state governmental agency; and**

**(3) the person has applied for the permit or requested the approval for the construction of the development, building, or structure from the state governmental agency within ninety (90) days of issuance of the permit by the local governmental agency.**

**(e) Subject to subsection (f), if the conditions of subsection (d) are satisfied:**

**(1) a permit or approval issued or granted to a person by the**

**C  
o  
p  
y**



1 local governmental agency for the construction of the  
2 development, building, or structure; or

3 (2) the person's right to construct the development, building,  
4 or structure without a permit or approval from the local  
5 governmental agency;

6 is governed for at least three (3) years after the person applies for  
7 the permit by the statutes, ordinances, rules, development  
8 standards, regulations, and approvals in effect and applicable to  
9 the property when the person applies for the permit or requests  
10 approval from the state governmental agency for the construction  
11 of the development, building, or structure, even if before the  
12 commencement of the construction or while the permit application  
13 or approval request is pending with the state governmental agency  
14 the statutes governing the granting of the permit or approval from  
15 the local governmental agency are changed by the general  
16 assembly or the ordinances, rules, development standards, or  
17 regulations of the local governmental agency are changed by the  
18 applicable local legislative body or regulatory body. However, this  
19 subsection does not apply if the development or other activity to  
20 which the permit or approval request relates is not completed  
21 within seven (7) years after the development or activity is  
22 commenced.

23 (f) Subsection (d) does not apply to property when it is  
24 demonstrated by the local or state governmental agency that the  
25 construction of the development, building, or structure would  
26 cause imminent peril to life or property.

27 (g) This section does not apply to building codes under IC 22-13.

28 SECTION 2. An emergency is declared for this act.

**C  
O  
P  
Y**



## SENATE MOTION

Madam President: I move that Senator Garton be removed as author of Senate Bill 35 and that Senator Long be substituted therefor.

GARTON

---

 COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 35, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Judiciary.

(Reference is to SB 35 as introduced.)

GARTON, Chairperson

---

 COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred House Bill No. 35, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 41, delete "606,".

Page 2, line 41, after "607" delete ",".

Page 3, line 6, delete "the earlier of:".

Page 3, line 7, delete "(1)".

Page 3, run in lines 6 through 7.

Page 3, line 7, delete "three (3) years" and insert "**eighteen (18) months**".

Page 3, line 7, delete "such" and insert "**the**".

Page 3, line 8, delete "; or" and insert ".".

ES 35—LS 6089/DI 13+



C  
o  
p  
y

Page 3, delete lines 9 through 10.

and when so amended that said bill do pass.

(Reference is to SB 35 as printed January 20, 2006.)

BRAY, Chairperson

Committee Vote: Yeas 8, Nays 1.

---

### SENATE MOTION

Madam President: I move that Senate Bill 35 be amended to read as follows:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 36-7-4-1109 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1109. (a) As used in this section, "local government agency" includes any agency, officer, board, or commission of a local unit of government that may issue:**

- (1) a permit; or**
- (2) an approval for the construction of a development, a building, or another structure.**
- (b) As used in this section, "permit" means any of the following:**
  - (1) An improvement location permit.**
  - (2) A building permit.**
  - (3) A certificate of occupancy.**
  - (4) Approval of a site-specific development plan.**
  - (5) Approval of a primary or secondary plat.**
  - (6) Approval of a conditional use, special exception or special use.**
  - (7) Approval of a planned unit development.**

**(c) If a person files a complete application as required by the effective ordinances or rules of a local government agency for a permit with the appropriate local governmental agency, the granting of the permit is governed by the statutes, ordinances, rules, development standards, and regulations in effect and applicable to the property when the application is filed, even if before the issuance of the permit or while the permit approval process is pending the statutes, ordinances, rules, development standards, or regulations governing the granting of the permit are changed by the general assembly or the applicable local legislative body or regulatory body.**

ES 35—LS 6089/DI 13+



C  
o  
p  
y

**(d) Subsection (e) applies if:**

**(1) either:**

**(A) a local governmental agency issues to a person a permit or grants a person approval for the construction of a development, a building, or another structure; or**

**(B) a permit or approval is not required from the local governmental agency for the construction of the development, building, or structure;**

**(2) before beginning the construction of the development, building, or structure, the person must obtain a permit or approval for the construction of the development, building, or structure from a state governmental agency; and**

**(3) the person has applied for the permit or requested the approval for the construction of the development, building, or structure from the state governmental agency within ninety (90) days of declaration by the local unit of government that no local permit is required for the construction of the development, building, or structure or within ninety (90) days of issuance of the permit by the local governmental agency.**

**(e) Subject to subsection (f), if the conditions of subsection (d) are satisfied:**

**(1) a permit or approval issued or granted to a person by the local governmental agency for the construction of the development, building, or structure; or**

**(2) the person's right to construct the development, building, or structure without a permit or approval from the local governmental agency;**

**is governed by the statutes, ordinances, rules, development standards, regulations, and approvals in effect and applicable to the property when the person applies for the permit or requests approval from the state governmental agency for the construction of the development, building, or structure, even if before the commencement of the construction or while the permit application or approval request is pending with the state governmental agency the statutes governing the granting of the permit or approval from the local governmental agency are changed by the general assembly or the ordinances, rules, development standards, or regulations of the local governmental agency are changed by the applicable local legislative body or regulatory body or as the result of annexation, if the municipality performing the annexation has an agreement with the county to enforce its ordinances, rules, development standards, or regulations or if the annexation has**

**C  
O  
P  
Y**



occurred with a".

Page 2, delete lines 1 through 41.

Page 2, line 42, delete "of this chapter without the".

Run in page 1, line 1 and page 2, line 42.

Page 2, line 42, delete "consent of an affected" and insert **"agreement between the municipality and the"**.

Page 3, line 1, delete "that has the effect of materially altering the development" and insert **"on the applicable ordinances, rules, development standards, or regulations."**

**(f) Subsection (d) does not apply to property when it is demonstrated by the local or state governmental agency that the construction of the development, building, or structure would cause imminent peril to life or property."**

Page 3, delete lines 2 through 7.

Re-number all SECTIONS consecutively.

(Reference is to SB 35 as printed January 27, 2006.)

SIMPSON

---

#### SENATE MOTION

Madam President: I move that Senator Simpson be added as second author of Engrossed Senate Bill 35.

LONG

---

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred Senate Bill 35, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 4, delete "government" and insert **"governmental"**.

Page 1, line 7, after "approval" insert **"of a land use or an approval"**.

Page 2, line 2, delete "government" and insert **"governmental"**.

Page 2, line 4, delete "is" and insert **", and the granting of any secondary, additional, or related permits or approvals required from the same local governmental agency with respect to the**

ES 35—LS 6089/DI 13+



C  
o  
p  
y



general subject matter of the application for the first permit, are".

Page 2, line 8, after "pending" insert ", or before the issuance of any secondary, additional, or related permits or approvals or while the secondary, additional, or related permit or approval process is pending,".

Page 2, line 9, after "permit" insert "or approval".

Page 2, line 11, after "body." insert "**However, this subsection does not apply if:**

(1) the development or other activity to which the permit relates is not commenced within five (5) years after the permit issued; or

(2) the development or other activity to which the permit relates is not completed within ten (10) years after the development or activity is commenced.".

Page 2, line 26, delete "within ninety".

Page 2, delete lines 27 through 28.

Page 2, line 29, delete "development, building, or structure or".

Page 2, run in lines 26 through 29.

Page 3, line 8, delete "or as the result" and insert ". **However, this subsection does not apply if:**

(1) the development or other activity to which the permit or approval request relates is not commenced within five (5) years after the permit issued; or

(2) the development or other activity to which the permit or approval request relates is not completed within ten (10) years after the development or activity is commenced.".

Page 3, delete lines 9 through 14.

and when so amended that said bill do pass.

(Reference is to SB 35 as reprinted February 2, 2006.)

HINKLE, Chair

Committee Vote: yeas 8, nays 4.

---

## HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 35 be amended to read as follows:

Page 2, line 8, after "governed" insert "**for at least three (3) years after the person applies for the permit**".

Page 2, line 19, delete ":".

ES 35—LS 6089/DI 13+



C  
O  
P  
Y

Page 2, delete lines 20 through 22.

Page 2, line 23, delete "(2)".

Page 2, run in lines 19 through 23.

Page 2, line 24, delete "ten (10)" and insert "**seven (7)**".

Page 3, line 9, after "governed" insert "**for at least three (3) years after the person applies for the permit**".

Page 3, line 21, delete ":".

Page 3, delete lines 22 through 24.

Page 3, line 25, delete "(2)".

Page 3, run in lines 21 through 25.

Page 3, line 26, delete "ten (10)" and insert "**seven (7)**".

Page 3, between lines 31 and 32, begin a new paragraph and insert:  
**"(g) This section does not apply to building codes under IC 22-13."**

(Reference is to ESB 35 as printed February 24, 2006.)

HINKLE

**C**  
**O**  
**P**  
**Y**

